

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSE ENRIQUE NUÑEZ, III,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 18-CV-4799
	:	
READING EAGLE COMPANY, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 19th day of December 2018, upon consideration of Plaintiff Jose Enrique Nuñez III's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 5), his Prisoner Trust Fund Account Statement (ECF No. 6), his *pro se* Complaint (ECF No. 1), and his Brief (ECF No. 4), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. Jose Enrique Nuñez III, #2016-0705, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by plaintiff, he is not assessed an initial partial filing fee. In each month when the amount in plaintiff's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to plaintiff's inmate trust fund account until the fees are paid. Each payment shall reference the docket number for this case, Civil Action No. 18-4799.
3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of the Berks County Jail.
4. Nuñez's Complaint is **DISMISSED** pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) & (ii) for the reasons stated in the Court's Memorandum. Nuñez's claims against the Reading

Eagle Company, Charles Prutzman, and the Reading Police Department (named as a Defendant in the body of the Complaint but not the caption) are **DISMISSED with prejudice**. Nuñez's claims against Warden Janine Quigley, Lt. Baurble, and Cpt Castro are **DISMISSED without prejudice** to Nuñez proceeding on those claims in the event he submits a second amended complaint in *Nuñez v. Quigely*, Civ. A. No. 18-4492, in accordance with the Court's order in that case. Nuñez should not file an amended complaint in this civil action.

5. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/ Gerald Austin McHugh
United States District Judge